

WILKINSON) BARKER) KNAUER) LLP

1800 M STREET, NW
SUITE 800N
WASHINGTON, DC 20036
TEL 202.783.4141
FAX 202.783.5851
www.wbklaw.com

David Oxenford
202.383.3337
doxenford@wbklaw.com

October 6, 2017

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

**Re: Notice of Ex Parte Communication
Review of Local Radio Ownership Rules - Embedded Radio Markets
MB Docket Nos. 09-182 and 14-50**

Dear Ms. Dortch:

On October 6, 2017, David Oxenford and Melissa Newman, on behalf of Connoisseur Media, LLC (“Connoisseur”), met with Holly Saurer and Kate Black of Commissioner Rosenworcel’s office to discuss the treatment under the Commission’s multiple ownership rules of radio stations that are home to embedded markets in major metropolitan areas.¹

As explained in previous filings, embedded markets are the only Nielsen markets where owners, in the context of any acquisition of new stations, have to meet the multiple ownership requirements in two markets – the embedded market itself, and the greater “parent” market. Currently, in two metropolitan areas – New York and Washington, DC – there are multiple embedded markets. In these two metropolitan areas, if a licensee with stations in one embedded market proposes to buy stations in another embedded market, it may be precluded from doing so even if the acquisition complied with the ownership caps in the individual embedded markets because the licensee’s overall total number of stations would exceed the ownership limits in the parent market.

¹ Connoisseur filed a Petition for Reconsideration of the Commission’s treatment of embedded markets in the *Second Report and Order* in the referenced dockets. See *2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Second Report and Order*, MB Docket Nos. 14-50, 09-182, 07-294, and 04-256, 31 FCC Rcd 9864 (2016).

Counsel explained that localism and the public interest would be better served if it eliminated this “Parent Trap” conundrum faced by licensees wishing to serve only multiple embedded markets within the parent market. Specifically, it proposed that the Commission adopt a policy that, if all interests in the Metro of the proposed attributable owner are in stations that are considered by BIA to be “home” solely to embedded markets, the application will be evaluated solely by review of the ownership limits applicable to the embedded markets, and the compliance with the ownership limits in the larger parent Metro market will not be examined. Counsel explained that this would not risk any undue concentration in the parent market, as even if one owner was able to acquire every station in every embedded market in either New York or Washington (which would be impossible because of the ownership rules in each of the embedded markets), that owner would not have anywhere near the market share of the largest groups in those parent markets.

Counsel also noted that this proposal is unopposed. Statements of support are on file from the NAB, two other broadcast groups, and a representative of one of the largest media advertising buyers in the New York City marketplace. The need for this change in the Commission’s policy is immediate, as Connoisseur has already been thwarted in at least two potential acquisitions because of the policy. A case-by-case waiver of the current policy is not a solution, as sellers of station clusters will not sell their stations unless they have certainty that a transaction can occur in a timely fashion - a certainty not provided by the need to seek a waiver.

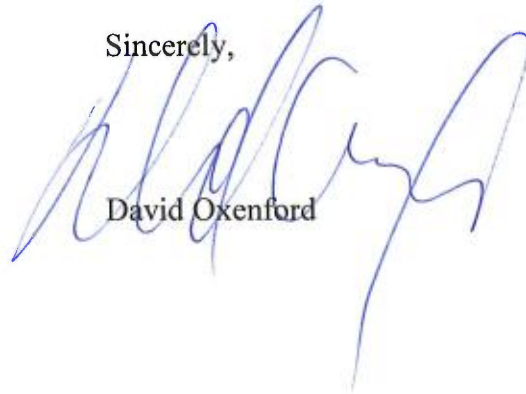
This change is in the public interest as it will allow embedded market stations to more fully compete with central city stations. Connoisseur has submitted data that shows that the revenue per person in the embedded markets is significantly less than that in comparable sized markets, as so much revenue is siphoned off to the central city stations. Expanding the reach of local market owners will help them return some of that revenue to the suburban markets, allowing for more robust local public service.

Connoisseur believes that BIA already provides a safeguard against any gaming of this system, as it classifies the one station licensed to a community in an embedded market but located on the Empire State Building to be a New York City parent market station, not one home to the Long Island market where its city of license lies. And Connoisseur has asked for a presumption that no dual-market analysis is required, which could be rebutted if someone somehow tried to game the system. But to alleviate any potential concerns about possible abuse, counsel indicated that Connoisseur would be comfortable with the adoption of an objective standard that would demonstrate that a proposed combination would not have an anticompetitive impact on the parent market. Connoisseur proposed one in its reconsideration petition (based on the FCC’s method of assessing ownership compliance in non-metro radio markets), and it would also willingly accept an alternative approach proposed by the NAB (stating that any embedded market station would not be able to take advantage of this presumption if its service contour covers more than 50% of the parent market).

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Enclosed is a copy of the slide presentation distributed at the meeting. Should there be any questions concerning this matter, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Oxenford", is written over the printed name. The signature is stylized with large, sweeping loops.

cc: Holly Saurer
Kate Black
Enclosure

Narrow Unopposed Reconsideration Request

Connoisseur Media

WILKINSON) BARKER) KNAUER) LLP

Background

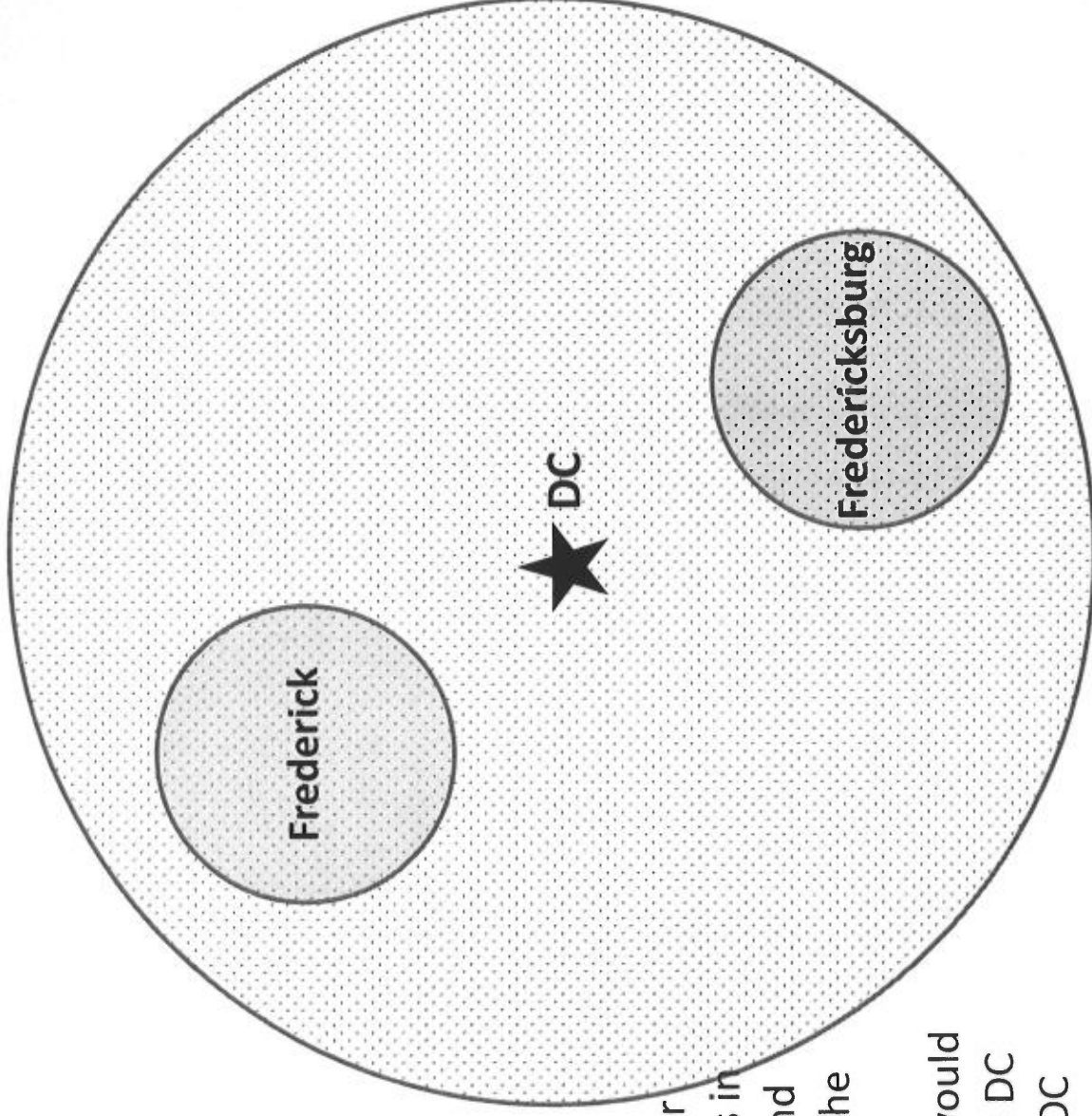
- Issue arises only in two Metropolitan areas with multiple “embedded markets” - New York and Washington, DC
- Arbitron adopted this concept so that the people in the counties in embedded markets would be included in the ratings totals for the parent market making those parent markets bigger – recognizes that central city stations reach and have listeners in these outlying counties
- But also recognizes that there are separate local suburban markets in which the stations actually located in those markets compete for local advertisers
- So advertising concept that central city stations compete in the embedded markets (which is true) ended up saying, for FCC ownership purposes, that embedded market stations were competitive factors in the parent market (which is false)

Current and Proposed Policy

- Current— if you own stations in one embedded market, and propose to buy stations in another embedded market, even though you comply with ownership rules in each market separately, you often cannot because you violate the ownership limits in the parent market
 - Policy expressed in one footnote in 2003 order, not in rule
- Proposal – when you have *stations only in the embedded market(s)*:
 - You need only comply with the ownership limits in the embedded market
 - Current rule would still apply if you have stations in the core of the parent market
 - Belt and suspenders: contour methodology (like in Puerto Rico where FCC determined Nielsen did not make sense) or NAB-proposed coverage methodology
- Case-by-case waiver harms the market, as sellers won't sell unless there is clear waiver standard.

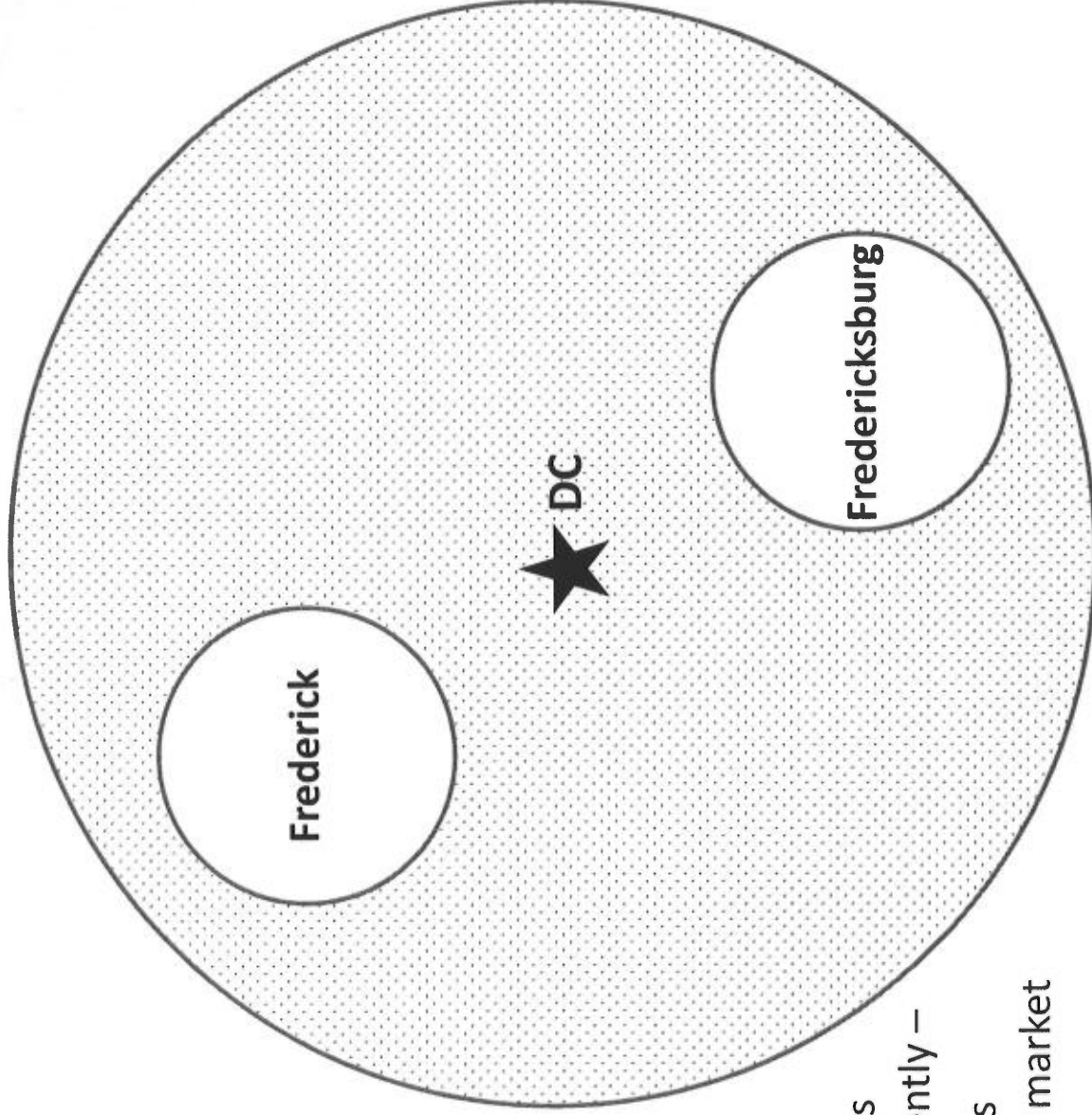
Current Policy

A Frederick owner can't buy stations in Fredericksburg and vice versa when the total number of stations owned would exceed the cap in DC as both count in DC



Proposed Policy

Embedded markets
treated independently –
Unless licensee has
interests in parent market



Current Policy

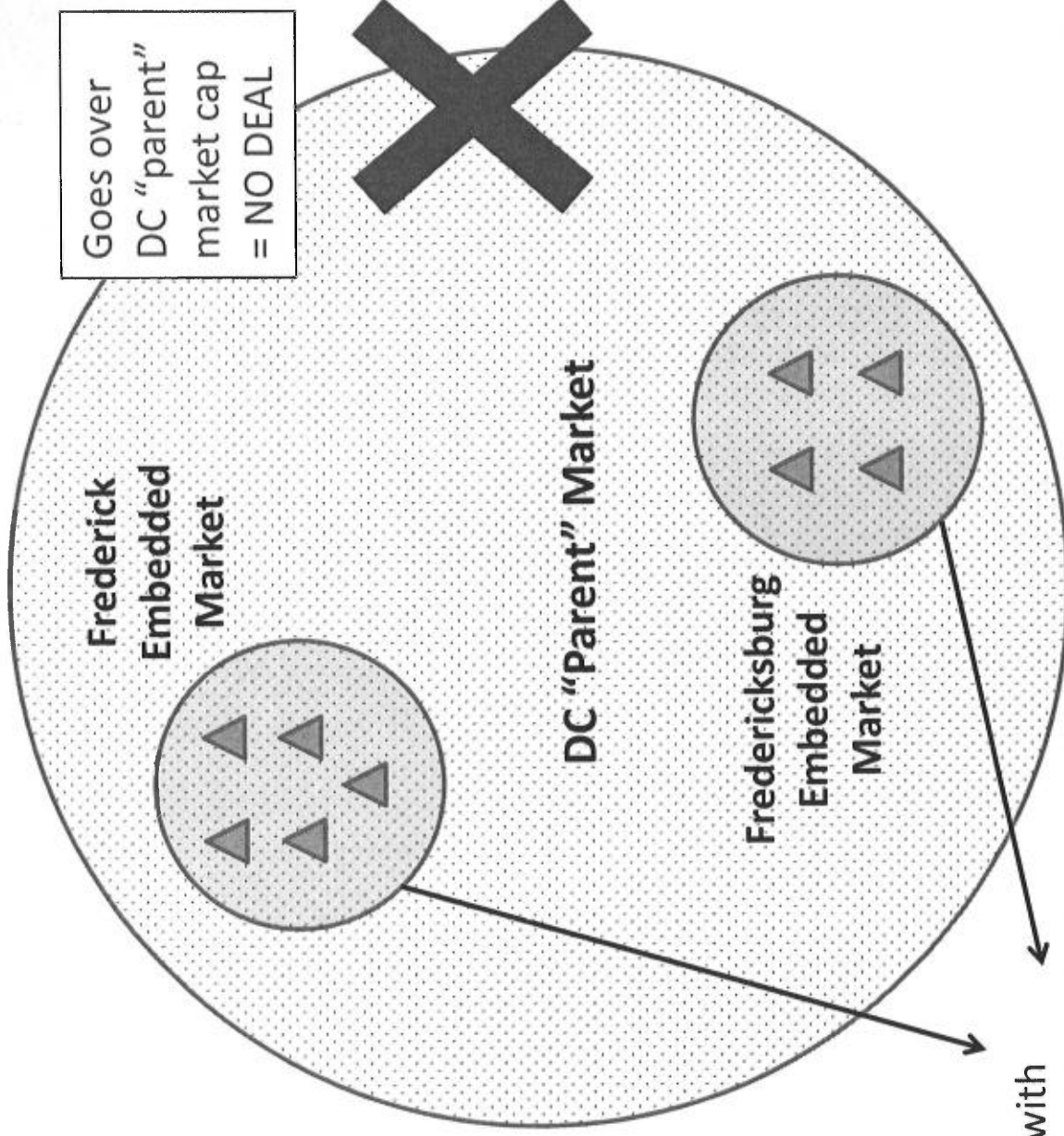
Frederick
Ownership
Cap: 5

Fredericksburg
Ownership
Cap: 6

Washington,
DC Ownership
Cap: 8

Complies with
embedded market cap

▲ = Radio Station



Proposed Policy

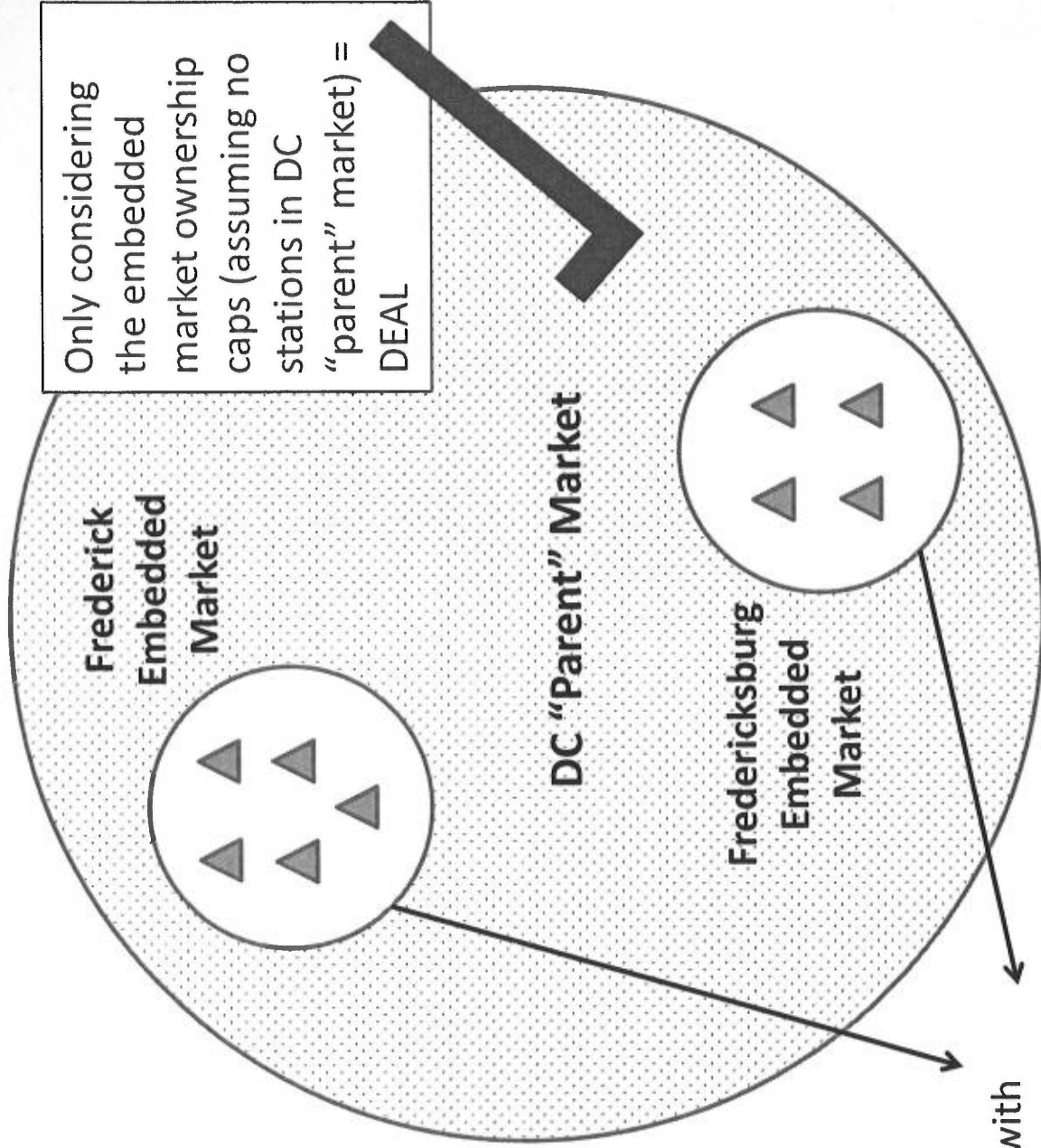
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Ownership
Cap: 5

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Complies with
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▲ = Radio Station



Connoisseur's Petition

Supporters

- National Association of Broadcasters
- JL Media, Inc.
- Townsquare Media
- Pamal Broadcasting

Opposition

- None

Our Proposal: Eliminate the “Parent Trap”

If all interests in the Metro of the proposed attributable owner are in stations that are considered by BIA to be “home” solely to embedded markets, the application will be evaluated solely by review of the ownership limits applicable to the embedded markets, and compliance with the ownership limits in the larger parent Metro market will not be examined.

Contact Us

David Oxenford

Wilkinson Barker Knauer, LLP

DOxenford@wbklaw.com

202.383.3337

Bryan Tramont

Wilkinson Barker Knauer, LLP

BTramont@wbklaw.com

202.383.3331

Kelly Donohue

Wilkinson Barker Knauer, LLP

KDonohue@wbklaw.com

202.383.3357

Melissa Newman

Wilkinson Barker Knauer, LLP

MNNewman@wbklaw.com

202.383.3410

WILKINSON) BARKER) KNAUER) LLP